



APR 14 2006

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Application No. : 09/990,802 Confirmation No. 3720
Applicant : Eitan FARCHI
Filed : November 13, 2001
Title : METHOD AND APPARATUS FOR COLLECTING PERSISTENT
COVERAGE DATA ACROSS SOFTWARE VERSIONS
TC/A.U. : 2124
Examiner : Jason D. MITCHELL

PAPER ENTITLED: Reply Brief**4 pages**☒ Original will not follow ☐ Original will follow by ☐ Regular Mail ☐ Overnight Delivery ☐ Hand Delivery

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PATENT

Attorney Docket No.: SVL920010003US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

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REPLY BRIEF

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Appellants provide the following remarks in response to the Examiner's Answer dated February 14, 2006, focusing on the following point, relative to Appellants' definition of the term "persistent" in their specification.

A distinction which Appellants have tried to make throughout prosecution is that the invention enables more efficient running of tests on changed code, avoiding the need to run complete test suites on code that is unchanged between versions. In the present application, Appellants call code that is unchanged between versions "persistent". Thus, looking for example at page 5 of the present application, Appellants have defined "persistent code coverage data" as "a previously collected code coverage data for the non-affected parts of the program, which is preserved for the modified version of the program eliminating the need for running the entire test bucket (i.e. test case collection)."

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The independent claims of the present application all recite, both in the preamble and in the body of the claim (so that the preamble breathes life into the claim), persistent code coverage data. The preservation of this code coverage data, which is something that neither Chen, nor Winder, nor Reinhardt, alone or in combination, teaches or even remotely suggests, makes the running of test cases more efficient.

Appellants submit that the Examiner has misconstrued the meaning of "persistent," and has paid little or no heed to Appellants' own definition. Specifically, Appellants can point to the following.

1) Ex. Ans., p. 17 – "If the data gathered for an old version did not persist at least until the new version had been written it would be impossible to compare the two." This definition does not meet the definition which the Examiner quoted immediately before, which is that the code coverage tasks persist across software versions. Data existing until a new version is written definitely does not persist across software versions. Therefore, the part of Chen on which the Examiner relies here cannot have anything to do with this aspect of the invention.

2) Ex. Ans., pp. 17-18 – "The names could not be compared if they did not persist across versions". This ties in to the recitation of a "persistent unique name" in the claims of the present application. If a name is changed from one version to another, it will not, cannot persist across versions. Therefore, once again the definition the Examiner has posited does not meet Appellants' definition of persistence across software versions. A name that exists until a new name is given definitely does not persist across software versions. Therefore, once again the part of Chen on which the Examiner relies here cannot have anything to do with this aspect of the invention, either.

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3) Ex. Ans., p. 19, compared with Ex. Ans., p. 4: The Examiner's reading of the claimed "code coverage tasks" on Chen is inconsistent. On p. 4 of the Answer, the Examiner refers to function trace lists 161 and 163 as containing "sufficient data to determine which 'entities' or 'code coverage tasks' have been executed". However, on p. 19 of the Answer, the Examiner refers to the function trace lists themselves as the code coverage tasks. In view of the inconsistency of the reading, Appellants stand by their previous position, which is that the claimed "code coverage tasks," as defined in the specification, in no way correspond to anything in Chen. In particular, as Appellants explained in their Appeal Brief, the "broadening" language they use to define "other alternative ways" to define "code coverage tasks" does not encompass Chen's entities.

4) Ex. Ans., pp. 21-22 – Appellants continue to disagree with the Examiner's application of the highly non-specific references in Winder to the claimed invention. Appellants submit that the Examiner is employing improper hindsight reconstruction, using the teachings of the present application to reach a conclusion of obviousness.

5) Finally, Appellants note that the "whereby" clauses of claims 6, 13, and 20 recite more specifically the effect of the invention claimed in the corresponding independent claims: "whereby the previously collected code coverage data for the non-affected code coverage tasks is preserved from a previous version of the program to the modified version of said program eliminating the need for running the entire test bucket" – namely, the preservation of previously collected code coverage data for non-affected code coverage tasks, so that the entire test bucket need not be run.

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In view of the foregoing, Appellants respectfully submit that all of the claims in the present application are patentable, and maintain the arguments they submitted in their Appeal Brief. Accordingly, Appellants respectfully request that the Examiner's rejections be reversed, and the application passed to allowance at the earliest opportunity.

Respectfully submitted,
KENYON & KENYON LLP

Dated: April 14, 2006

By: Vol. Cillman Reg. No. 43,535 for:
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